

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

ALBERT GARZA,  
*Plaintiff,*

VS.

LOWE'S COMPANIES, INC.,  
*Defendant.*

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CIVIL ACTION NO. 5:22-cv-885

**DEFENDANT'S NOTICE OF REMOVAL**

Defendant Lowe's Companies, Inc. ("Defendant") files this Notice of Removal pursuant to 28 U.S.C. §§ 1441 and 1446, and respectfully shows:

**I. Commencement and Service**

1. On June 28, 2022, Albert Garza ("Plaintiff") commenced this action by filing an Original Petition ("State Court Petition") in the 166<sup>th</sup> Judicial District Court of Bexar County, Texas. The case is styled Cause No. 2022CI11946, *Albert Garza v. Lowe's Companies, Inc.*<sup>1</sup> Plaintiff seeks monetary relief over \$1,000,000.

2. The lawsuit was first served on Defendant on July 12, 2022.<sup>2</sup>

3. Defendant timely answered in state court on August 8, 2022.<sup>3</sup>

4. This Notice of Removal is filed within thirty days of the receipt of service of process and is therefore timely filed pursuant to 28 U.S.C. § 1446(b). This Notice of Removal is also filed within one year of the commencement of this action and is thus timely pursuant to 28 U.S.C. § 1446(c).

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<sup>1</sup> See **Exhibit C**, Plaintiff's Original Petition.

<sup>2</sup> See **Exhibit E**, Return of Service and Affidavit.

<sup>3</sup> See **Exhibit F**, Defendant's Original Answer and Affirmative Defenses.

### **Grounds for Removal**

5. Defendant is entitled to remove the state court action to this Court pursuant to 28 U.S.C. §§ 1332, 1441 and 1446 because this action is a civil action involving an amount in controversy exceeding \$75,000.00 between parties with diverse citizenship.

### **Diversity of Citizenship**

6. There is complete diversity of citizenship between Plaintiff and Defendant.

7. Plaintiff is a citizen of Texas.<sup>4</sup>

8. Defendant Lowe's Companies, Inc. is a foreign corporation.<sup>5</sup> Lowe's Companies, Inc. was incorporated in North Carolina and maintains its principal place of business in North Carolina.<sup>6</sup> For purposes of determining diversity of citizenship, a corporation is deemed "a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business..."<sup>7</sup> Accordingly, there is diversity between Plaintiff, a citizen of Texas, and Defendant, a citizen of North Carolina.

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<sup>4</sup> See **Exhibit C** ¶ 5.

<sup>5</sup> See **Exhibit I**, Lowe's Companies, Inc.'s Application for Registration of Foreign For-Profit Corporation

<sup>6</sup> *Id.*; see also **Exhibit G**.

<sup>7</sup> 28 U.S.C. § 1332

**Amount in Controversy**

9. This is a personal injury case with over \$75,000 in controversy at the time of this removal. Per Plaintiff's Original Petition, Plaintiff seeks monetary relief in an amount that exceeds \$1,000,000.<sup>8</sup>

**Venue**

10. Venue lies in the United States District Court for the Western District of Texas, San Antonio Division, pursuant to 28 U.S.C. §§ 1441(a) and 1446(a) because Plaintiff filed the action in this judicial district and division.

**Notice**

11. Defendant will give notice of the filing of this Notice of Removal to all parties of record pursuant to 28 U.S.C. § 1446(d). Defendant will also file with the clerk of the state court and will serve upon Plaintiff's counsel, a notice of the filing of this Notice of Removal.

**Exhibits to Notice of Removal**

12. In support of this Notice of Removal and pursuant to 28 U.S.C. §1446(a), true and correct copies of the following documents are attached to this Notice as corresponding lettered exhibits:

- A. ***Exhibit A*** – Index of documents filed in Cause No. 2022CI11946; *Albert Garza v. Lowe's Companies, Inc.* in the 166<sup>th</sup> Judicial District, Bexar County, Texas;
- B. ***Exhibit B*** – Docket Sheet for Cause No. 2022CI11946; *Albert Garza v. Lowe's Companies, Inc.* in the 166<sup>th</sup> Judicial District, Bexar County, Texas;

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<sup>8</sup> See **Exhibit C ¶ 1.**

- C. ***Exhibit C*** – Plaintiff’s Original Petition filed on June 28, 2022, Cause No. 2022CI11946; *Albert Garza v. Lowe’s Companies, Inc.* in the 166<sup>th</sup> Judicial District, Bexar County, Texas;
- D. ***Exhibit D*** – Citation issued on June 29, 2022; Cause No. 2022CI11946; *Albert Garza v. Lowe’s Companies, Inc.* in the 166<sup>th</sup> Judicial District, Bexar County, Texas;
- E. ***Exhibit E*** – Affidavit of Service completed on July 12, 2022, with affidavit and filed on July 14, 2022; Cause No. 2022CI11946; *Albert Garza v. Lowe’s Companies, Inc.* in the 166<sup>th</sup> Judicial District, Bexar County, Texas;
- F. ***Exhibit F*** – Defendant’s Original Answer and Affirmative Defenses filed on August 8, 2022, *Albert Garza v. Lowe’s Companies, Inc.* in the 166<sup>th</sup> Judicial District, Bexar County, Texas;
- G. ***Exhibit G*** – Certificate of Interested Parties;
- H. ***Exhibit H*** – Notice of Filing Removal in State Court;
- I. ***Exhibit I*** – Defendant’s Application for Registration of a Foreign For-Profit Corporation

**Prayer**

WHEREFORE, Defendant, pursuant to the statutes cited herein and in conformity with the requirements set forth in 28 U.S.C. §1446, removes this action from the 166<sup>th</sup> Judicial District, Bexar County, Texas, to this Court.

Respectfully submitted,

**By: /s/ Trek Doyle**

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*ATTORNEYS FOR DEFENDANT*



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**CERTIFICATE OF SERVICE**

By my signature above, I hereby certify that a true and correct copy of the above and foregoing document has been served by electronic delivery to counsel identified below on this, the 11<sup>th</sup> day of August 2022.

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